

MISSOURIANS FOR KIT BOND

December 23, 1998

Commissioners
Federal Election Commission
999 E Street, N.W.
Washington, DC 20463

RE: Response to MUR 4819

Dear Commissioners:

This letter is in response to the Missouri State Democratic Committee's complaint in MUR 4819 received by us on October 22, 1998. I was Political Director of Missourians for Kit Bond and have personal knowledge of all facts and circumstances related to this matter. Prior to joining the campaign I was District Office Director for Senator Bond. I am currently Senator Bond's Deputy Chief of Staff.

The only alleged violation raised by this complaint over which the Federal Election Commission (the "Commission") has jurisdiction is 11 C.F.R. §100.7(a)(3).

FACTS

Senator Christopher S. Bond is the senior Senator from the State of Missouri. As part of the discharge of his duties as a United States Senator, Senator Bond frequently meets with constituents to discuss issues of concern in Missouri. He holds these meetings on the phone and in

person in Washington D.C. as well as in Missouri. As his position requires him to be in Washington D.C. for most of the year, these meetings are critically important for the Senator to stay in touch with local issues. Additionally, Senator Bond receives numerous communications from constituents on a daily basis and has as a policy that his office respond to these questions and comments in a timely manner. Through all of these communications, there are no personal services rendered on behalf of those individuals to the Senator. The constituents are carrying out their civic duty of communicating with their elected officials to educate them on issues of importance to their state.

On April 6th, Senator Bond met with members of the Platte County Sheriff's office to discuss issues of local concern and film the meeting. Senator Bond has been heavily involved in law enforcement issues as a member of the Senate. For instance, the Senator held two meetings involving the Kansas City Police Department's Drug and Gang Units. The result of those meetings led the Senator to work to have \$1.4 million released from the High Intensity Drug Area program.

Members of the Platte County Sheriff's office were invited to attend this meeting and did so based solely on their own decisions. It was an opportunity for all parties to address concerns over a variety of law enforcement issues. A roundtable discussion was held which allowed members and the Senator to ask and answer numerous questions related to their work. The initial discussion was not filmed. Following the initial discussion, the Senator was given a tour of the jail which was filmed. This afforded

the Senator the opportunity to view first hand the facilities in operation. Thereafter, another roundtable discussion occurred which was filmed. This was a continuation of earlier conversations related to the department, including the proliferation of methamphetamine labs. For illustration purposes, the department assembled display tables to give the Senator a sense of all the equipment necessary to operate a methamphetamine lab as well as an effective department to combat this scourge. Meetings and displays such as these have happened thousands of times in Senator Bond's career.

The campaign arranged to film the educational meetings. Part of this footage was ultimately incorporated into a campaign commercial produced and paid for by Senator Bond's principal campaign committee. The individuals in the meeting did not provide any personal services to the Senator. To the contrary, it was an opportunity for the department to engage in a mutually beneficial dialog.

Following the meeting, a couple members of the Sheriff's department continued their discussion with the Senator while walking down a sidewalk. This was an opportunity for a couple of individuals to continue their dialog with the Senator and raise additional concerns. Individuals were asked but not required to accompany the Senator on this walk. The camera crew filmed this walk. Again, no personal services were rendered to the Senator during these discussions.

As part of his learning about the importance of the department and to obtain additional film footage, Senator

Bond requested an off-site mock raid of a drug house. The mock raid of the drug house was separate and apart from the from the other events. It occurred at a later date and at a personal residence that was volunteered for this purpose. Individuals were asked to volunteer to stage the raid on their own time. Each person involved with the production of this footage did so as a volunteer and were not on duty. These volunteers were able to display for the Senator the importance of their jobs and the inherent risks they undertake in the line of duty on a daily basis. This footage was made available to the department for their use. Again, these individuals were not paid by anyone for their involvement and participated as volunteers.

The meeting, the tour and the walk were educational visits by the Senator with constituents which were captured on video. These did not include any express advocacy by the candidate, endorsements of Senator Bond for re-election or any contribution solicitations. There was no discussion of the upcoming election. There were cameras present which filmed the meetings and some of the footage was ultimately incorporated into a campaign commercial. Had it been requested, this footage would have been made available to the department for their use and in fact the mock meth lab raid footage was provided to the officers who participated.

STATUTES AND REGULATIONS

The Federal Election Campaign Act (the "Act") includes in the definition of contribution:

The payment by any person of compensation for the personal services of another person which are rendered to a political committee without charge for any purpose. 2 U.S.C. §431(8)(A)(ii).

Further, the Act specifically excludes from the definition of contribution:

The value of services provided without compensation by any individual who volunteers on behalf of a candidate or political committee... 2 U.S.C. §431(8)(B)(i).

The violation alleged by complainant is related to the following regulation:

The payment by any person of compensation for the personal services of another person if those services are rendered without charge to a political committee for any purpose...is a contribution. 11 C.F.R. §100.7(a)(3).

The key to this provision is the rendering of personal services to a political committee. Neither the Act nor the Regulations define personal service. However, it is clearly something more than just participating in a mutually beneficial meeting with an officeholder to discuss local issues of critical importance. Further, services performed as a volunteer are specifically exempted by the Act from the definition of contribution.

ANALYSIS

The Platte County Sheriff's Department agreed to schedule this meeting with Senator Bond to discuss law enforcement issues. This meeting took place during department work hours to advance the goals of the department. These individuals were being paid to do their work, not to work on any campaign. The individuals filmed at this meeting were doing their work; advancing the interests of their department. There was no endorsement of or any express advocacy of any candidate. Further, there was no discussion of the campaign. These individuals were given the opportunity to participate, but were not required to do so and they were by no means coerced into attending.

This meeting was similar to meetings held with farmers in a field, doctors at a hospital or construction workers at a building site where elected representatives meet with constituents at their places of business. The ability of elected officials to meet with individuals at their places of business is important to gaining an understanding of what those individuals do for a living. These meetings alone do not result in personal services being rendered to a political committee nor do they raise the specter of any contribution being made. They are a bona fide educational opportunity for all parties involved.

As an analogy, the regulations related to corporations and labor organizations state that stockholders and employees may make occasional, isolated or incidental use of facilities for volunteer activity. This minimal use is allowed as long as it does not prevent an employee from

engaging in their normal work, does not interfere with the corporation carrying out its normal activities and it does not exceed one hour per week or four hours per month. 11 C.F.R. §114.9(a). To the extent resources were used in connection with this volunteer activity, it is clearly within the safeharbor afforded corporate employees.

As for the mock raid on the drug house, this was done with volunteers from the department. These were not being paid for their participation. These volunteers staged the raid while off duty at a private residence which was volunteered for that purpose. The volunteers acted in full compliance with the Act and Regulations. 2 U.S.C. §431(8)(B)(i).

There is a long line of advisory opinions in which the Commission has recognized that people may act without a contribution resulting. In AO 1975-97 an entertainer was allowed to volunteer his or her services to a campaign without a contribution resulting. In AO 1979-58 a partner in a law firm was allowed to volunteer his services to a campaign without a contribution resulting as long as his compensation does not depend the numbers of hours spent on firm business. In Advisory Opinion 1982-56 the Commission ruled that a candidate was able to appear in a campaign commercial for another candidate for office without a contribution resulting. All of these advisory opinions addressed issues where individuals were providing personal services to a campaign.

The Commission has determined that a contribution does result where individuals provide personal services and are

compensated by another for those services. In Advisory Opinion 1982-4 the Commission examined services provided by carpenters, plumbers, electricians, carpet-layers and other tradesmen to the campaign. These services were volunteered, but if these individuals were compensated by their employer or another for the services they provided to the campaign, the Commission stated it would result in a contribution to the campaign by the paying entity. This opinion was based on individuals being paid for providing personal services to the campaign. It was stated that "if any of the individuals were paid by their employer or a by another person for the work that he/she did in the renovation of the premises, those payments would be considered contributions..." However, in this case, there were no personal services provided to the campaign by these individuals. Further, as to the mock raid of the drug house, these were volunteers that were not being paid by their regular employer, they volunteered their services and facility on their own time.

It is clear that everyone that participated in the meetings and mock raid did so on a voluntary basis. These individuals were given an opportunity to participate and chose to do so. At the meeting, these individuals did not render any personal service to the campaign which could be construed as a contribution from either the individual or their regular employer. It was a mutually beneficial meeting which benefited all participants. Additionally, much like the provisions for corporate employees, these individuals did not engage in a significant amount of activity that would rise to the level of a contribution. There was no express advocacy by the candidate, endorsements

of Senator Bond for re-election or any contribution solicitations.

The other factually inaccurate allegations and charges made in the complaint are not based on sections of the law within the jurisdiction of the Commission.

I urge the Commission to take no further action in response to this complaint.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Bradley M. Scott". The signature is fluid and cursive, with a long horizontal stroke at the end.

Brad Scott
On behalf of
Honorable Christopher Bond and
Missourians for Kit Bond
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